

TAB

24 February 1956

MEMORANDUM FOR: Deputy Director (Intelligence)

SUBJECT: Loss of Nationality

1. You have inquired as to those provisions of law which could bring about a loss of nationality for a person naturalized as a United States citizen, who was born in Germany as a German citizen, and who later returns to Germany to reside.

2. The applicable provisions of law are found in Title 8, U. S. Code, Sections 1484 and 1485.

"§ 1484. Loss of nationality by naturalized national

"(a) A person who has become a national by naturalization shall lose his nationality by--

"(1) having a continuous residence for three years in the territory of a foreign state of which he was formerly a national or in which the place of his birth is situated, except as provided in section 1485 of this title, whether such residence commenced before or after the effective date of this chapter; . . .

"(b) (1) For the purpose of paragraph (1) of subsection (a) of this section, the time during which the person had his residence abroad solely or principally for a reason or purpose within the scope of any provision of section 1485 of this title shall not be counted in computing quantum of residence"

"§ 1485. Inapplicability of section 1484 to certain persons

"Section 1484 (a) of this title shall have no application to a national who--

"(1) has his residence abroad in the employment of the Government of the United States; or

"(2) is receiving compensation from the Government of the United States and has his residence abroad on account of disability incurred in its service; or

"(3) shall have had his residence in the United States for not less than twenty-five years subsequent to his naturalization, and shall have attained the age of sixty years when the foreign residence is established; or

"(4) had his residence abroad on October 14, 1940, and temporarily has his residence abroad, or who thereafter has gone or goes abroad and temporarily has his residence abroad, solely or principally to represent a bona fide American educational, scientific, philanthropic, commercial, financial, or business organization, having its principal office or place of business in the United States, or a bona fide religious organization having an office and representative in the United States, or an international agency of an official character in which the United States participates, for which he receives a substantial compensation; or

"(5) has his residence abroad and is prevented from returning to the United States exclusively (A) by his own ill health; or (B) by the ill health of his parent, spouse, or child who cannot be brought to the United States, whose condition requires his personal care and attendance: Provided, That in such case the person having his residence abroad shall, at least every six months, register at the appropriate Foreign Service office and submit evidence satisfactory to the Secretary of State that his case continues to meet the requirements of this subparagraph; or (C) by reason of the death of his parent, spouse, or child: Provided, That in the case of the death of such parent, spouse, or child the person having his residence abroad shall return to the United States within six months after the death of such relative; or

"(6) has his residence abroad for the purpose of pursuing a full course of study of a specialized character or attending full-time an institution of learning of a grade above that of a preparatory school: Provided, That such residence does not exceed five years; or

"(7) is the spouse or child of an American citizen, and who has his residence abroad for the purpose of being with his American citizen spouse or parent who has his residence abroad for one of the objects or causes specified in paragraphs (1)-(5) or (6) of this section, or paragraph (2) of section 1486 of this title; or

"(8) is the spouse or child of an American national by birth who while under the age of twenty-one years had his residence in the United States for a period or periods totalling ten years, and has his residence abroad for the purpose of being with said spouse or parent; or

"(9) was born in the United States or one of its outlying possessions, who originally had American nationality and who, after having lost such nationality through marriage to an alien, reacquired it; or

"(10) has, by Act of Congress or by treaty, United States nationality solely by reason of former nationality and birth or residence in an area outside the continental United States: Provided, That (section 1434 (a) of this Title) shall not be held to be or to have been applicable to persons defined in this paragraph."

3. The above cited provisions are the only ones which would bring about an automatic divestiture of United States nationality. Loss may also be occasioned, of course, by acts inconsistent with loyalty to the United States and the nature of such acts, as described in section 1481 of the same Title.

"§ 1481. Loss of nationality by native-born or naturalized citizen; voluntary action

"(a) From and after the effective date of this chapter a person who is a national of the United States whether by birth or naturalization, shall lose his nationality by--

"(1) obtaining naturalization in a foreign state upon his own application, upon an application filed in his behalf by a parent, guardian, or duly authorized agent, or through the naturalization of a parent having legal custody of such person: Provided, That nationality shall not be lost by any person under this section as the result of the naturalization of a parent or parents while such person is under the age of twenty-one years, or as the result of a naturalization obtained on behalf of a person under twenty-one years of age by a parent, guardian, or duly authorized agent, unless such person shall fail to enter the United States to establish a permanent residence prior to his twenty-fifth birthday: And provided further, That a person who shall have lost nationality prior to January 1, 1948, through the naturalization in a foreign state of a parent or parents,

may, within one year from the effective date of this chapter, apply for a visa and for admission to the United States as a nonquota immigrant under the provisions of section 1102 (a) (27)(E) of this title; or

"(2) taking an oath or making an affirmation or other formal declaration of allegiance to a foreign state or a political subdivision thereof; or

"(3) entering, or serving in, the armed forces of a foreign state unless, prior to such entry or service, such entry or service is specifically authorized in writing by the Secretary of State and the Secretary of Defense: Provided, That the entry into such service by a person prior to the attainment of his eighteenth birthday shall serve to expatriate such person only if there exists an option to secure a release from such service and such person fails to exercise such option at the attainment of his eighteenth birthday; or

"(4) (A) accepting, serving in, or performing the duties of any office, post, or employment under the government of a foreign state or a political subdivision thereof, if he has or acquires the nationality of such foreign state; or (B) accepting, serving in, or performing the duties of any office, post, or employment under the government of a foreign state or a political subdivision thereof, for which office, post, or employment an oath, affirmation, or declaration of allegiance is required; or

"(5) voting in a political election in a foreign state or participating in an election or plebiscite to determine the sovereignty over foreign territory; or

"(6) making a formal renunciation of nationality before a diplomatic or consular officer of the United States in a foreign state, in such form as may be prescribed by the Secretary of State; or

"(7) making in the United States a formal written renunciation of nationality in such form as may be prescribed by, and before such officer as may be designated by, the Attorney General, whenever the United States shall be in a state of war and the Attorney General shall approve such renunciation as not contrary to the interests of national defense; or

"(8) deserting the military, air, or naval forces of the United States in time of war, if and when he is convicted thereof

by court martial and as the result of such conviction is dismissed or dishonorably discharged from the service of such military, air, or naval forces: Provided, That notwithstanding loss of nationality or citizenship under the terms of this chapter or previous laws by reason of desertion committed in time of war, restoration to active duty with such military, air, or naval forces in time of war or the reenlistment or induction of such a person in time of war with permission of competent military, air, or naval authority shall be deemed to have the immediate effect of restoring such nationality or citizenship heretofore or hereafter so lost; or

"(9) committing any act of treason against, or attempting by force to overthrow, or bearing arms against, the United States, if and when he is convicted thereof by a court martial or by a court of competent jurisdiction; or

"(10) departing from or remaining outside of the jurisdiction of the United States in time of war or during a period declared by the President to be a period of national emergency for the purpose of evading or avoiding training and service in the military, air, or naval forces of the United States. For the purposes of this paragraph failure to comply with any provision of any compulsory service laws of the United States shall raise the presumption that the departure from or absence from the United States was for the purpose of evading or avoiding training and service in the military, air, or naval forces of the United States.

"(b) Any person who commits or performs any act specified in subsection (a) of this section shall be conclusively presumed to have done so voluntarily and without having been subjected to duress of any kind, if such person at the time of the act was a national of the state in which the act was performed and had been physically present in such state for a period or periods totaling ten years or more immediately prior to such act."

4. If you have any additional questions pertaining to a specific case, I would be happy to try to answer them.

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Assistant General Counsel

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